

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

ROCK HILL DIVISION

William D. Owens-Ali ,)	
Cynthia J. Owens-Ali,)	
)	
Plaintiffs,)	Civil Action No. 0:11-129-JFA-JRM
)	
v.)	
)	REPORT AND RECOMMENDATION
Beta Finance Company Inc.,)	
)	
Defendant.)	
)	

Plaintiffs, William D. Owens-Ali and Cynthia J. Owens-Ali, originally filed this *pro se* action in the Court of Common Pleas for York County. Defendant, Beta Finance Company, Inc., removed it to this Court on January 14, 2011 based on diversity and federal question jurisdiction.¹ On January 21, 2011, Defendant filed a motion to dismiss the complaint for failure to state a claim upon which relief may be granted, or in the alternative, for an order requiring Plaintiffs to make their claims more definite and certain. Because Plaintiffs are proceeding *pro se*, an order pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975) was entered by the Court on January 21, 2011, advising them of their responsibility to respond to the motion to dismiss. Plaintiffs filed a response, captioned “Acceptance Of Response To Motion To Dismiss” on February 1, 2011.

Plaintiffs’ response is not entirely clear. It states *in toto*:

Plaintiffs has recently been informed of unintentional misdirection and misinformation rendered by chosen counsel for Plaintiffs. Plaintiffs offer sincere

¹This case was automatically referred to the undersigned pursuant to Local Rule 73.02(B)(2)(e) (D.S.C).

apology and would like to agree with Defendant's request and Have Motion Dismissed immediately.

The undersigned construes Plaintiffs' response as a consent to Defendant's motion to dismiss. Based on this response, the undersigned recommends that Defendant's motion be **granted**, and the case **dismissed** pursuant to rule 12(b)(6), Fed.R.Civ.P.



Joseph R. McCrorey
United States Magistrate Judge

Columbia, South Carolina

March 4, 2011

The parties are referred to the Notice Page attached hereto.

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *see* Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
901 Richland Street
Columbia, South Carolina 29201

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).